



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

FEB 15 2017

VIA EMAIL AND CERTIFIED MAIL

Mr. Michael Cooke  
GreenbergTraurig  
101 East Kennedy Boulevard, Suite 1900  
Tampa, FL 33602

Re: D N S Enterprises of Florida, Inc. d/b/a Punch It Performance

Dear Mr. Cooke:

This letter accompanies the enclosed request for information and summarizes the events of the past several months that have led me to conclude that our efforts to work collaboratively with you and your client have been met with delay and limited cooperation. For nearly six months, DNS has refused to agree to a date for a meeting or a deposition. Please understand that the enclosed Request for Information is issued under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Failure to provide the requested information in its entirety, and in the format requested, may result in additional inquiries and may result in the initiation of a civil action pursuant to Section 205(b) of the CAA, 42 U.S.C. § 7524(b).

As you know, the Environmental Protection Agency ("EPA") conducted an inspection of DNS Enterprises of Florida, Inc. d/b/a Punch It Performance ("DNS")<sup>1</sup> on August 4, 2015 ("August 2015 inspection"). On June 17, 2016, DNS signed for a Notice of Violation letter ("NOV") from the EPA to DNS that alleges 8,979 violations of the Clean Air Act ("CAA").<sup>2</sup> The NOV instructed DNS to contact the EPA within ten days of receipt of the letter, which would have been June 27, 2016; but, DNS did not contact the EPA. On July 12, 2016, I emailed the attorney who represented DNS during the August 2015 inspection, Maximilian Smith, but never received a response. On July 28, 2016, I called the phone number on the Punch It Performance website, and asked to speak to Michael Schimmack. When Mr. Schimmack answered the phone, I asked why DNS had not contacted the EPA despite signing for the letter and Mr. Schimmack told me that he had never received the letter. When I explained that I had

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<sup>1</sup> D N S Enterprises of Florida, Inc., has registered the fictitious name of "Punch It Performance" with the state of Florida, and thereby legally does business as "Punch It Performance." Due to the interrelationships between Michael Schimmack, D N S Enterprises of Florida, Inc., Punch It Performance Limited Liability Company, Punch It Performance and Tuning LLC, Punch It Products, LLC, and Punch It Properties, LLC, all of the aforementioned entities will be referred to as "DNS" for purposes of this letter.

<sup>2</sup> The individual who signed for the NOV was Barry Clark, the DNS agent for service of process registered with the state of Florida.

tried to contact Mr. Smith, Mr. Schimmack informed me that you were now representing him. Indeed, you called me later the same afternoon and said you would send me a written response to the NOV.<sup>3</sup>

On August 8, 2016, you notified me by email that you were still working on a written response, but would provide it by August 12, 2016. On August 17, 2016, I emailed you to inquire about the status of the written response. On August 22, almost two months after DNS should have contacted the EPA, I received the written response.

To open up a dialogue about the violations, we scheduled an NOV phone conference for September 29, 2016. On September 27, 2016, you asked to postpone the NOV conference. On October 4, you asked to re-schedule no earlier than the week of October 10, 2016, and I proposed two dates; but on October 5, 2016, you asked to postpone again. On October 6, 2016, I offered three more dates, but on October 13, you asked to postpone once more. I offered multiple times on October 24, but you waited until the Friday before (October 21) to inform me that you would not be ready to participate in the phone conference on Monday.

On October 25, 2016, I notified you of our intent to issue a subpoena to depose Mr. Schimmack, and asked that you provide dates that would be convenient for you and your client between November 30 and December 9, 2016. You did not propose a single date during this time range. On November 7, 2016, I suggested December 14 or 15, but you did not agree to either of these dates, nor did you propose any alternate dates.

Thus, over the course of the last five months, DNS has postponed the NOV conference five times and has not offered a single date for a deposition. While not cooperating with regard to scheduling, DNS has also demonstrated an unwillingness to provide the information that the EPA has requested.

When the EPA conducted its initial inspection on August 4, 2015, DNS was located at 3485 Vinyard Circle, Deltona, Florida, 32738. Around the same time that the EPA was requesting dates for an NOV conference and asking DNS to provide information about what actions the company was taking to remedy the conduct that originally led to the violations, the EPA learned that DNS was operating its business from a new, undisclosed location. DNS did not inform the EPA that it was operating from a new location despite the fact that DNS was subject to an on-going investigation regarding its compliance with the CAA. DNS also did provide this new address in any of its filings with the Secretary of State.

On November 2, 2016, EPA inspectors arrived at the new, undisclosed location (600 Courtland Boulevard, Deltona, Florida, 32738) to conduct an inspection. The DNS employee present refused to allow the inspection on the basis that the business owner, Michael Schimmack, was out of town attending an automotive specialty products trade event in Las Vegas, Nevada. In lieu of conducting an inspection, the inspectors hand-delivered a Section 208 preservation letter ("208 letter") to the employee that required DNS to make available, prior to December 31, 2016:

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<sup>3</sup> Considering that Mr. Schimmack claimed he had not received the NOV, I was surprised to learn that you had the NOV in hand when you called me a few hours later that afternoon.

all information, records, parts, components, and devices in your possession, custody, or control related in any way to the following:

- (a) The manufacturing, sale, offering for sale, purchase, repair, or installation of any part or component of or for any motor vehicle or motor vehicle engine that changes, affects, or bypasses any element of design related to emissions of air pollution, including but not limited to any: diesel particulate filter system; exhaust gas recirculation system; catalytic converter system; on-board diagnostic system; selective catalytic reduction system; and sensors, signals, or records related to these systems.
- (b) Manufacturing, sale, offering for sale, purchase, repair, or installation of any part or component of or for any motor vehicle or motor vehicle engine that changes, affects, or bypasses that vehicle's or engine's electronic control module (ECM). This includes but is not limited to any part or component that relates to fueling strategy on-board diagnostic systems.

On November 10, 2016, we discussed by phone that DNS would provide QuickBooks data for sales during the time period from the date of the August 2015 inspection through the present. On November 15, 2016, and again on December 1, 2016, I inquired about the status of providing this information. On December 1, 2016, you informed me that your client would not be able to provide the EPA with sales information related to these parts until January because DNS was in the process of compiling over 2,000 invoices. Yet, when our inspectors visited the Vinyard Circle address during the August 2015 inspection, your client provided five years of sales data on a flash drive *the very same day*. On December 1, 2016, I asked for an explanation as to why the data – which covered a much shorter period of time – could not be provided in the same format. On December 5, 2016, and again on December 21, 2016, I sent emails requesting a status update on when your client would provide the requested information. Finally, by letter on December 28, 2016, (“December 28<sup>th</sup> letter”) you refused to provide the QuickBooks data.

The December 28<sup>th</sup> letter states that DNS is “uncomfortable” with providing the EPA with an updated copy of its QuickBooks data because the data includes sensitive information. There are several tools available to DNS to ensure that such information is protected, but refusing to cooperate with an on-going investigation is not one of them. One of the safeguards available to DNS is to claim the information as confidential business information (“CBI”). During the August 2015 inspection, EPA inspectors informed Mr. Schimmack that he could claim CBI on any documents or files he provided to the EPA. Indeed, with counsel present, Mr. Schimmack asserted that the QuickBooks files he originally provided to the EPA were CBI.<sup>4</sup> The December 28<sup>th</sup> letter also states that DNS cannot provide the requested information to the EPA because the files contain credit card account numbers for DNS customers, but DNS knows that the Quickbooks software allows selective export of data that can exclude credit card numbers because this is precisely the format in which the information was provided to the EPA during the August 2015 inspection.

DNS’ recent refusal to provide basic sales information for a limited period of time is only the latest roadblock in a series of uncooperative responses to our efforts to work with the company. Throughout these communications, confusion as to what information the EPA is seeking in this matter, has been repeatedly cited as an excuse for delay. To this end, the enclosed Request for Information is

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<sup>4</sup> Mr. Schimmack’s attorney wrote a letter on August 4, 2015, to the EPA that he specifically authorized his client to provide the QuickBooks files to the EPA.

very specific. However, if you still anticipate being unable to answer the Request for Information within thirty days, take note that you must provide appropriate justification within seven days of the date of the Request.

Sincerely,

A handwritten signature in black ink, appearing to read "Lauren Tozzi". The signature is fluid and cursive, with the first name "Lauren" written in a larger, more prominent script than the last name "Tozzi".

Lauren Tozzi, Attorney-Advisor  
Air Enforcement Division  
Office of Civil Enforcement

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 15 2017

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**IN THE MATTER OF:** D N S Enterprises of Florida, Inc. (d/b/a Punch It Performance)

Mr. Michael Schimmack  
D N S Enterprises of Florida, Inc.  
3485 Vinyard Circle  
Deltona, FL 32738

**Attention:** Mr. Michael Cooke  
GreenbergTraurig  
101 East Kennedy Boulevard, Suite 1900  
Tampa, FL 33602

**Request for Information Under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a)**

The United States Environmental Protection Agency ("EPA" or "We") hereby requires D N S Enterprises of Florida, Inc. (d/b/a Punch It Performance) ("DNS" or "you"),<sup>1</sup> to submit certain information as part of an EPA investigation to determine your compliance with Sections 203(a) and 213(d) of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85 and 86. Examples of vehicles or engines regulated under these Parts include, but are not limited to cars and pickup trucks. Appendix A provides definitions. Appendix B provides instructions for your responses to this Request for Information. Appendix C specifies the information that you must submit.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202-219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Director of the Air Enforcement Division, Office of Enforcement and Compliance Assurance.

You must submit this information to the EPA representative listed below within thirty (30) calendar days from the date of this Request for Information. Please carefully review the instructions, definitions, and specific requests as you prepare your response. If you anticipate being unable to fully respond to this Request for Information by this date, you must contact Lauren Tozzi, Attorney-Adviser, by telephone at (202) 564-4904 or by email at [Tozzi.Lauren@epa.gov](mailto:Tozzi.Lauren@epa.gov), within seven (7) days of the date of this Request

<sup>1</sup> See definition 5 in Appendix A.

for Information and, with an appropriate justification, request an extension of time to answer some or all of the requests below. If timely submitted, the EPA will review your request and may extend the time in which your response must be provided.

Failure to provide the requested information in its entirety, and in the format requested, may result in additional inquiries and may result in the initiation of a civil action pursuant to Section 205(b) of the CAA, 42 U.S.C. § 7524(b). It is important that your responses be clear, accurate, organized, and complete. We will regard any submitted information that is misleading, false, incomplete, or submitted without regard to its accuracy as a violation of the CAA and/or criminal statutes.

Finally, you must submit all requested information under an authorized signature with the following certification (provided in Appendix E):

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

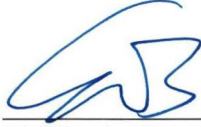
We may use any information submitted in response to this Request for Information in an administrative, civil, or criminal action.

You are entitled to assert a business confidentiality claim covering all or part of the information you submit in response to this Request for Information, in accordance with the procedures described in the Confidentiality of Business Information (“CBI”) regulations, 40 C.F.R. Part 2, Subpart B. However, no CBI claim may be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). You must specify the page, paragraph, and sentence when identifying the information subject to your CBI claim. Appendix D of this Request for Information specifies the assertion and substantiation requirements for business confidentiality claims. The EPA may, without further notice, provide the public with any information not subject to a CBI claim.

Please submit all requested information, via courier service or overnight delivery, to:

Lauren Tozzi, Esq.  
Air Enforcement Division, Office of Civil Enforcement  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
WJC Federal Building, South  
Room 1111-C, Mail Code 2242A  
Washington, DC 20460

Any questions concerning this Request for Information should be directed to Ms. Lauren Tozzi at (202) 564-4904 or [Tozzi.Lauren@epa.gov](mailto:Tozzi.Lauren@epa.gov).

for  Evan Belser  
Phillip A. Brooks  
Director  
Air Enforcement Division  
Office of Civil Enforcement

## **Appendix A**

### **Definitions**

1. All terms used in this Request for Information will have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. §§ 7401 *et seq.*, or the Motor Vehicle and Non-Road Regulations found at 40 C.F.R. Parts 85, 86, 89, 90, 1051, and 1068.
2. The terms “document” and “documents” mean any object that records, stores, or presents information, and includes, without limitation, email, writings, memoranda, contracts, agreements, records, or information of any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy, including any form or format of these. If in computer format or memory, each such document shall be provided in translation to a form useable and readable by EPA, with all necessary documentation and support. All documents in hard copy shall also include attachments to or enclosures with any document.
3. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization, or association.
4. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
5. The terms “DNS,” “you,” and “your” include, but are not limited to, Punch-It Performance, D N S Enterprises of Florida, Inc., Punch It Performance Limited Liability Company, Punch It Performance and Tuning LLC, Punch It Products, LLC, Punch It Properties LLC and Michael Schimmack and any parent organization, affiliate, predecessor, successor, and assignee organization.
6. The term “Affiliate” means any organization or entity associated with you as an agent, parent organization, predecessor corporation, subsidiary organization, or any organization or entity acting in lieu of you or the entities named in Definition 5.
7. The term “motor vehicle” means any self-propelled vehicle designed for transporting persons or property on a street or highway. *See* Section 216 of the CAA, 42 U.S.C. § 7550(2).
8. The term “applications” means all vehicle or engine configurations.
9. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance as defined in 40 C.F.R. § 85.2102.

10. The term “element of design” means any control system (*e.g.*, computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. § 86.094-2.
11. The term “part or component” includes any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine (*e.g.*, electronic control module, element of design, tuner, tune, calibration map, computer program or software that is installed on or designed for use in such vehicles or engines).
12. The term “sale” includes *all* sales (*e.g.*, sales made online through eBay or any other online sales platform, sales made in person, sales made in bulk to distributors, as well as mail order tunes provided to customers in association with the purchase of a tuner).
13. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Other ECMs may be incorporated separately with multiple units used to control various engine, vehicle, or equipment functions. Examples of electronic control modules include, but are not limited to, Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”), and after-treatment control module. Any or all of these modules may be combined into a single unit.
14. The term “engine tuner” or “tuner” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (*e.g.*, fuel timing maps), coding, or other content or information stored within or used by an electronic control module.
15. The term “tune” or “engine tune” means any software, code, or programming capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (*e.g.*, fuel timing maps), coding, or other content or information stored within or used by an electronic control model.
16. The term “selective catalytic reduction” or “SCR” includes systems that inject a reductant, such as diesel exhaust fluid (“DEF”), into the exhaust stream where it reacts with a catalyst to convert nitrogen oxides (“NO<sub>x</sub>”) emissions to nitrogen gas (“N<sub>2</sub>”) and water (“H<sub>2</sub>O”).
17. The term “onboard diagnostics” or “OBD” includes systems that monitor components that can affect the emission performance of the vehicle to ensure that the vehicle remains as clean

as possible over its entire life, and assists repair technicians in diagnosing and fixing problems with the computerized engine controls. If a problem is detected, the OBD system illuminates a warning lamp on the vehicle instrument panel to alert the driver.

18. The term “exhaust gas recirculation” or “EGR” includes systems that direct, usually by use of a valve, a portion of engine exhaust back into the engine’s combustion chamber in order to control combustion temperatures and pressures, thereby reducing the production of  $\text{NO}_x$ . The EGR system may include a cooler that cools the recirculated exhaust.
19. The term “Diesel Particulate Filter” or “DPF” refers to an exhaust after-treatment device that physically traps particulate matter (“PM”) and removes it from the exhaust stream of diesel fueled vehicles and equipment, typically using a porous ceramic or cordierite substrate or metallic filter.
20. The term “catalysts” includes systems that contain parts or chemical elements that increase the rate of a chemical reaction but are not one of the original reactants or final products, i.e., are not consumed or altered in the reaction. Catalysts consist of a flow-through structure that is coated with an active metal catalyst and surrounded by a stainless steel housing.

**Appendix B**  
**Instructions for Responses**

1. Provide a complete, detailed response to each of the requests in Appendix C, below. Provide any narrative responses or lists in English, in both written document form and in electronic form (*e.g.*, Word, Excel), provided you have access to spreadsheet software. Please contact Ms. Lauren Tozzi at (202) 564-4904 or [Tozzi.Lauren@epa.gov](mailto:Tozzi.Lauren@epa.gov), if providing the responses in electronic form will be an issue.
2. This Request for Information is a continuing request. You must promptly supplement your response to any request in Appendix C in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after initially responding to this Request for Information.
3. For each answer, please provide the number of the request to which it responds and identify each person who provided information that was used to prepare that answer. For each document produced, please provide the number of the request to which it responds. Where information is responsive to more than one numbered request, provide that information only once, but indicate on the responsive material the numbers of all requests to which the information is responsive.
4. When a response includes a quantity with units of measure, specify the units of measure.
5. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information is not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
6. All submitted documents should be copies and not original documents.
7. Where you have previously submitted information to the EPA that is also the subject of these requests, re-submit that information in accordance with these instructions (Appendix B). Identify the material that was previously provided, the date on which it was provided, how the information was provided (*e.g.*, electronically, fax, mail), and the individual at EPA to whom it was provided.
8. Please provide your response to this Request for Information in electronic form. Please provide the Statement(s) of Certification (Appendix E) in hard copy form with your response. All responsive documents and materials (*e.g.*, copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, submitted on a disk (CD or DVD media) or flash drive, and number stamped in sequential order (*e.g.*, BATES stamped) to permit identification using unique references. Where spreadsheets are

responsive to a request, produce them in unlocked electronic spreadsheet format, such as .xls or .csv (locked spreadsheets, .pdf files, and images are unacceptable). Please contact Ms. Tozzi if providing the information electronically will be an issue.

9. Where a person at an entity other than you is responsible for a response to a request in Appendix C, clearly indicate in your response which entity is providing the response, as well as the person.

**Appendix C**  
**Request for Information**

D N S Enterprises of Florida, Inc. (d/b/a Punch-It Performance), and any of its affiliates (“DNS” or “you”) shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either offered for sale or sold since August 4, 2015.

1. With respect to your accounting database covering purchase and sales, provide a copy of your purchase and sales records covering all parts or components you sold between August 4, 2015, and the present. Include purchase and sales records pertaining to any support services provided for parts or components. This can be a data export from an electronic database, electronic copies of hard records, or both.
2. For each part or component offered for sale or sold by you between August 4, 2015, and the present, indicate the following:
  - a. whether the part or component is an engine tuner;
  - b. whether the part or component is an engine tune;
  - c. whether the part or component replaces, modifies, bypasses, allows for deletion or partial deletion, or affects a vehicle’s:
    - i. electronic control module or other part of an engine’s control system;
    - ii. diesel particulate filter (“DPF”) system;
    - iii. exhaust gas recirculation (“EGR”) system;
    - iv. catalytic converter system (“catalyst”);
    - v. on-board diagnostic system (“OBD”);
    - vi. selective catalytic reduction system (“SCR”); or
    - vii. any other emissions related parts.
3. For each part or component offered for sale or sold by you between August 4, 2015, and the present, provide a description of the part or component if not included in response to Request 2.a.-c.
4. For each part or component identified in Requests 2.a.-2.c., provide a list of all websites, magazines, trade publications, and any other media in which you advertised the part or component at any time since August 4, 2015, and provide copies of such advertisements.
5. For each part or component identified in Requests 2.a.-2.c., submit copies of any applicable installation or operation guides or manuals.
6. For each part or component identified in Requests 2.a.-2.c., identify any products that were developed, created, and/or manufactured after August 4, 2015.

7. Provide a description of all of the methods DNS utilizes or has utilized since August 4, 2015, to tune ECMs and identify all locations by address where DNS conducts or has conducted tunes of ECMs.
8. Provide a description of any software application you utilize or have utilized since January 1, 2013, to tune ECMs, and provide all user manuals, licensing agreements, and/or fees associated with such software application(s).
9. Please provide the following information with regard to SCT Holdings, Inc., SCT Delaware Holdings d/b/a Derive Systems, SCT Fleet Solutions LLC d/b/a Derive Efficiency, and BD Acquisition LLC ("SCT"):
  - a. Any contracts or agreements you have entered into with SCT;
  - b. A listing of any products you have purchased from SCT, including the price, a description of the product, and when it was purchased;
  - c. A listing of any SCT products you have sold, including the price, a description of the product, and when it was sold.
10. Identify the names and titles of all employees of each of the following entities since January 1, 2013:
  - a. D N S Enterprises of Florida, Inc.;
  - b. Punch It Performance Limited Liability Company;
  - c. Punch It Performance and Tuning LLC;
  - d. Punch It Products, LLC;
  - e. Punch It Properties LLC.
11. For parts or components that are identified in response to Requests 1 through 2 above, state whether any emission testing was conducted to assess the effect such parts or components have on vehicle emissions and provide the following information:
  - a. A description of the test, including identification of the part or component and vehicle, the EPA engine family, the name of the vehicle, test equipment, test protocols, and calibration procedures;
  - b. A sample test report and any training or instructional materials used for educating employees and affiliated persons about how to perform the test; and
  - c. The date and location of the test, the name and position of the person who conducted the test, and the test results.

12. For parts or components that are identified in response to Requests 1 through 2 above, state whether you or any person submitted an application for an Executive Order to the California Air Resources Board and provide a copy of the application for each part or component. State whether each component received an Executive Order exempting the component from California's emission control system anti-tampering law, California Vehicle Code § 27156. If the component received an Executive Order, provide the Executive Order number and state whether the California Air Resources Board required any change to the component or application in order to receive approval.
13. Identify each individual responsible for responding to this Request for Information, including his/her title(s), the request(s) to which each individual responded, and the period of time for which each individual is providing a response.
14. Provide a copy of DNS' certificate of good standing, articles of incorporation, by-laws, and partnership or membership agreements, as applicable. Provide a list of DNS officers, directors, shareholders, members, managers, or partners, as applicable. Provide a copy of the minutes of DNS' last three annual board meetings. Provide a list of all stock holdings of DNS.
15. Provide the name and title of all members and managers of each of the following entities, as well as a copy of each entity's operating agreement, membership agreement, bylaws, and copies of minutes of each entity's last three annual meetings:
  - a. D N S Enterprises of Florida, Inc.;
  - b. Punch It Performance Limited Liability Company;
  - c. Punch It Performance and Tuning LLC;
  - d. Punch It Products, LLC;
  - e. Punch It Properties LLC.
16. Provide a list of any asset purchases, asset sales, or asset transfers in the last three years by each of the following entities:
  - a. D N S Enterprises of Florida, Inc.;
  - b. Punch It Performance Limited Liability Company;
  - c. Punch It Performance and Tuning LLC;
  - d. Punch It Products, LLC;
  - e. Punch It Properties LLC.
17. Provide a list and copies of all loan applications submitted and received by each of the following entities between January 1, 2014, and the present:
  - a. D N S Enterprises of Florida, Inc.;

- b. Punch It Performance Limited Liability Company;
- c. Punch It Performance and Tuning LLC;
- d. Punch It Products, LLC;
- e. Punch It Properties LLC.

18. Provide a list of all companies, domain names, and any other public facing name(s) which are owned by or affiliated with each of the following entities:

- a. D N S Enterprises of Florida, Inc.;
- b. Punch It Performance Limited Liability Company;
- c. Punch It Performance and Tuning LLC;
- d. Punch It Products, LLC;
- e. Punch It Properties LLC.

19. Provide a list of real property owned by each of the following entities:

- a. D N S Enterprises of Florida, Inc.;
- b. Punch It Performance Limited Liability Company;
- c. Punch It Performance and Tuning LLC;
- d. Punch It Products, LLC;
- e. Punch It Properties LLC.

20. Provide a list of vehicles, boats, and trailers owned by each of the following entities:

- a. D N S Enterprises of Florida, Inc.;
- b. Punch It Performance Limited Liability Company;
- c. Punch It Performance and Tuning LLC;
- d. Punch It Products, LLC;
- e. Punch It Properties LLC.

21. Provide all correspondence, contracts, and agreements between DNS and each of the following entities:

- a. Punch It Performance Limited Liability Company;
- b. Punch It Performance and Tuning LLC;
- c. Punch It Products, LLC;
- d. Punch It Properties LLC.

22. Provide a narrative description of the relationship between DNS and each of following entities:

- a. Punch It Performance Limited Liability Company;

- b. Punch It Performance and Tuning LLC;
  - c. Punch It Products, LLC;
  - d. Punch It Properties LLC.
23. Provide a list of all customers who received the buyback offer described in the letter to the EPA dated November 8, 2016 (“the buyback”).
24. Provide a record of all parts or components DNS received as a result of the buyback along with documentation that a refund was issued for the returned parts or components.
25. Please state “yes” or “no,” if DNS destroyed any and all products it received as a result of the buyback.
26. If the answer to the previous question is “yes,” please describe what actions DNS took to dispose of the products.
27. Please state “yes” or “no,” if DNS re-sold any of the products it received as a result of the buyback.
28. If the answer to previous question is “yes,” please provide information about each re-sale, including whether the parts or components were re-sold in the same form or modified. For each of these sales, please provide all of the information requested in Requests 2.a.-2.c..

**Rudy’s Performance Parts, Inc.**

29. Provide a narrative description of the relationship Rudy’s Performance Parts, Inc. (“Rudy’s”) and each of the following entities:
- a. D N S Enterprises of Florida, Inc.;
  - b. Punch It Performance Limited Liability Company;
  - c. Punch It Performance and Tuning LLC;
  - d. Punch It Products, LLC;
  - e. Punch It Properties LLC.
30. Provide all contracts, and agreements between Rudy’s and each of the following entities from August 4, 2015, until the present:
- a. D N S Enterprises of Florida, Inc.;
  - b. Punch It Performance Limited Liability Company;
  - c. Punch It Performance and Tuning LLC;
  - d. Punch It Products, LLC;

e. Punch It Properties LLC.

31. Please state “yes” or “no” for each entity, if any of the following entities have ever contacted Rudy’s regarding a recall or buy-back program:

- a. D N S Enterprises of Florida, Inc.;
- b. Punch It Performance Limited Liability Company;
- c. Punch It Performance and Tuning LLC;
- d. Punch It Products, LLC;
- e. Punch It Properties LLC.

32. If the answer to the previous question is “yes,” please provide all information pertaining to such recall or buy-back program, including when the entity informed Rudy’s of the recall or buy-back program.

33. Please state “yes” or “no” for each entity, if any of the following entities have ever sold products to and/or produced products for Rudy’s:

- a. D N S Enterprises of Florida, Inc.;
- b. Punch It Performance Limited Liability Company;
- c. Punch It Performance and Tuning LLC;
- d. Punch It Products, LLC;
- e. Punch It Properties LLC.

34. If the answer to previous question is “yes,” please provide a copy of that entity’s purchase and sales records covering all such parts between January 1, 2014 and the present. This can be a data export from an electronic database, electronic copies of hard records, or both.

35. Please state “yes” or “no,” if, since January 1, 2014, Rudy’s has shipped tuners to any of the following entities to be programmed:

- a. D N S Enterprises of Florida, Inc.;
- b. Punch It Performance Limited Liability Company;
- c. Punch It Performance and Tuning LLC;
- d. Punch It Products, LLC;
- e. Punch It Properties LLC.

36. If the answer to the previous question is “yes,” please provide a narrative description of this arrangement, including the specific work that the entity performed, the original source of any tuners that were sent to the entity, and any payments associated with this arrangement.

## **Appendix D**

### **Confidential Business Information**

You may assert a business confidentiality claim covering all or part of the information you provide in response to this Request for Information for any business information entitled to confidential treatment under Section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. Part 2, Subpart B. Under Section 208(c) of the CAA, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, Subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” See 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2, Subpart B. EPA will construe your failure to furnish a business confidentiality claim with your response to this Request for Information as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this Request for Information. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by the EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without your consent, and (4) the disclosure of the information is likely to cause substantial harm to your business competitive edge. See 40 C.F.R. §§ 2.208 (a)-(d). Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. See 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).

If you assert a claim of business confidentiality in connection with information and documents forwarded in response to this Request for Information, in accordance with 40 C.F.R.

§ 2.204(e)(4), the EPA is requesting that you answer the following requests with respect to any information or document for which you assert a claim of business confidentiality:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.
2. For what period of time do you request that the information be maintained as confidential (e.g., until a certain date, until the occurrence of a specified event, or permanently)? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effect. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding requests? If so, you may provide such additional explanation.

You must furnish comments to the above requests concurrent with your response to this Request for Information if you have claimed any information as business confidential. *See* 40 C.F.R.

§ 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. The EPA will construe your failure to furnish timely comments as a waiver of your confidentiality

claim, consistent with 40 C.F.R. § 2.204(e)(1). Please submit your comments to:

Lauren Tozzi, Esq.  
Air Enforcement Division, Office of Civil Enforcement  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
WJC Federal Building, South  
Room 1111-C, Mail Code 2242A  
Washington, DC 20460

Pursuant to 40 C.F.R. § 2.205(c), you are hereby advised that information you submit as part of your comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), you may assert a business confidentiality claim covering all or part of your response to these requests, as provided in 40 C.F.R. § 2.203(b). Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with your comments as a waiver of that claim, and the information may be made available to the public without further notice to you.

**Appendix E**  
**Statement of Certification**

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Request for Information, issued pursuant to Section 208(a) of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

I certify that I am fully authorized by \_\_\_\_\_ [corporate affiliation] to provide the above information on its behalf to EPA.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Title: \_\_\_\_\_